

COLORADO STATE BOARD OF MEDICAL EXAMINERS

FULL BOARD OPEN MINUTES

February 18, 2010

9:02 a.m.

A Full Board meeting of the Colorado State Board of Medical Examiners was held Thursday, February 18, 2010, at 1560 Broadway, Conference Room 1250C, Denver, Colorado at 9:02 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis, Dr. Butler, Dr. Calonge (arrived at 9:17 a.m.), Mr. Jennings, Reverend Leivers; Dr. Matthews, Dr. Melendez, Dr. Overholt, Ms. Radcliff, Mr. Schoenmakers, Dr. Utt and Dr. Watts.

The meeting was conducted by Dr. Allen-Davis.

Also in attendance for all or part of the meeting were Board staff Susan Miller, Healthcare Section Director; Marschall S. Smith, Program Director, Maria Soto, Program Assistant; Brian Tobias, Office of Policy, Research and Regulatory Reform; Ilene Wolf-Moore, First Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open minutes of the November 19, 2009 full board meeting as amended.

REPORTS

President's Report

Dr. Allen-Davis informed the Board that she would be attending the Annual FSMB Meeting in April 2010.

Section Director's Report

Susan Miller and Brian Tobias provided a discussion regarding legislative issues regarding Sunset Review. After the discussion, a motion was made, seconded, and carried for the Board to maintain a neutral position. The motion was opposed by Dr. Allen-Davis, Dr. Overholt, and Dr. Watts.

Ms. Miller also provided a discussion regarding the FSMB Draft Report on Continued Competence of Licensed Physicians.

Program Director's Report

Marschall Smith discussed email communication with members of the Board and that as the Program Director he would be utilizing this tool to keep the Board informed about emerging issues and to provide updates. However, the email tool can not be used for decision making or discussions by the Board members and he reminded the Board that they should not ever hit the "Reply to All" button as it creates concerns regarding Colorado Open Meeting Laws. The Program Director indicated that he was open and appreciative of comments or suggestions regarding agenda items or making the process of the Board and the Panels more effective and efficient. He indicated that several meetings had taken place with members of the medical community and that he was looking forward to those on-going opportunities.

GENERAL BUSINESS

EMTS-MDC Recommendations for Rule 500 Waivers

Arthur Kanowitz, M.D., Medical Director, Emergency Medical & Trauma Services (EMTS) Section, and Marilyn K. Bourn, R.N., EMTS State Training Coordinator at Colorado Department of Public Health and Environment (CDPHE), were present at the meeting to discuss Medical Direction Committee (MDC) Rule 500 Waiver recommendations.

After discussion, motions were made, seconded and carried to adopt the EMTS-MDC recommendations for Rule 500 waiver requests. Specifically, separate motions were made, seconded, and carried to approve renewal of waivers 10-01, 10-02-A, 10-02-B, 10-03-A, 10-03-B, 10-03-C, 10-03-D, 10-03-E, 10-03-F and 10-03-G.

Dr. Kanowitz provided an update regarding statewide clinical guidelines regarding RSI. The update was for the Board's information and no action was required.

Dr. Kanowitz provided an update regarding Eagle County Ambulance District 2009 Report on Critical Care Transports. The update was for the Board's information and no action required.

The Board reviewed annual waiver report for waiver 08-079, regarding surgical cricothyrotomy by EMT-Paramedics submitted by Bruce Gross, D.O., Emergency Medicine, EMS Medical Director. The review was for the Board's information and no action required.

Chris Colwell, M.D., Medical Director, Denver Paramedic Division, Interim Director, Emergency Medicine

Dr. Colwell provided information and presented an update regarding the use of droperidol. The use of droperidol waiver was granted to the EMT-Paramedics at Denver Health Paramedic Division on August 21, 2008. The waiver is set to expire on August 21, 2010.

Barbara J. Kelley, Executive Director, DORA

Ms. Kelley was introduced to the Board and she held a discussion about her vision for DORA.

Rulemaking Hearing to Adopt New Rule:

Rule 950 – Colorado State Board of Medical Examiners Rules and Regulations Concerning the Physician’s Role in Prescriptive Authority for Advanced Practice Nurses

PUBLIC RULEMAKING TO ADOPT PROPOSED RULE 950

At 10:00 a.m. an announcement was made that, unless an objection was expressed, the rulemaking would start after conclusion of the General Business appearances. No objections were made.

A motion was made, seconded and carried to convene the public rulemaking hearing at 10:30 a.m. and the hearing closed at 10:50 a.m. The Hearing, properly noticed under the provisions of the Administrative Procedure Act, was to adopt proposed Rule 950.

Dr. Allen-Davis presented an overview of the proposed rule. A full opportunity was provided for submission of oral and written comments by the public.

Written testimony was received in advance of the hearing from the following individuals:

- Maureen Hartlaub, Program Director, Nurse-Physician Advisory Taskforce for Colorado Healthcare (NPATCH)
- Mark Merrill, Program Director, Board of Nursing

Verbal testimony was received from the following individuals:

- Maureen Hartlaub, Program Director, Nurse-Physician Advisory Taskforce for Colorado Healthcare (NPATCH)
- Mark Merrill, Program Director, Board of Nursing
- Vicki Erickson, President of the Board of Nursing
- Jan Hamilton, Private Citizen
- Rose McCool, Director, Division of Registrations

After due consideration, a motion was made, seconded and carried unanimously to adopt Rule 950 as amended to become effective on July 1, 2010.

Review of Proposed Policy 40-24

The Board reviewed proposed Policy 40-24 and a written statement from Carol Goddard, Executive Director for the Colorado Academy of Physician Assistants. Kyle

Kirkpatrick, M.S., PA-C, presented to the Board in favor of the proposed Policy. After discussion, a motion was made, seconded, and carried to adopt Policy 40-24 as submitted.

Annual Designation of the 2010 Board Meeting Notices

The Board reviewed staff memo regarding annual designation of the 2010 board meeting notices. A motion was made, seconded and carried to approve the annual designation.

First Time Failure to Respond

Board staff presented a discussion item regarding first time failure to respond without any aggravators. A motion was made, seconded, and carried to provide instructions to the Program Director to assist the Panels in making a disciplinary determination. The Program Director will ensure that the Panel considers aggravators in the case in making the determination whether to dismiss the case with a Letter of Concern (LOC) or to discipline the physician with a Letter of Admonition (LOA).

Wrong Site Surgery

Board staff presented a discussion item requesting consideration of not retaining expert consultants in cases which involved wrong-side surgery. The Board discussed various options and concerns. A motion was made, seconded and carried to provide instructions to the Program Director to assist the Panels in making a disciplinary determination. The Program Director will ensure that the Panel understands that it need not retain an expert consultant during the Panel's investigative phase in cases of wrong site surgery when all the physician members of the Panel are in agreement that the situation clearly involves substandard care, the finding is only for a wrong site surgery, and the Panel agrees that a disciplinary action in the form of an LOA is appropriate.

Review of Board Policy 10-11

The Board reviewed proposed changes to Policy 10-11. The Board amended the proposed changes to include a requirement that the Program Director must consult with the Panel Chair or Board President prior to issuing a suspension authorized in C.R.S. 12-36-118(5)(g)(IV). After discussion, a motion was made, seconded, and carried to accept proposed changes with the amendment to Policy 10-11. Dr. Watts opposed the motion.

Review of Board Policy 20-05

The Board reviewed proposed changes to Policy 20-05. After discussion, a motion was made, seconded, and carried to accept proposed changes to Policy 20-05.

Review of Statistics Involving Board Policy 20-20

The Board reviewed statistics involving Policy 20-20. The review was for the Board's information and no action required.

Wendy Anderson, Program Director of the Board of Pharmacy

The Board reviewed correspondence from Wendy Anderson and a memo from Beth Chester, Senior Director Clinical Pharmacy Services & Quality, Kaiser Permanente requesting amendment of Pharmacy Regulation 6.00.00.

Dr. Allen-Davis and Dr. Watts recused themselves from the discussion and left the meeting room. Dr. Calonge acted as Chair for this discussion.

A motion was made, seconded and carried to not support the expansion of Pharmacy Rule 6.00.00 and provide a letter to the Board of Pharmacy outlining its reasons. The Program Director was authorized to sign the letter.

Raymond William Hilty, M.D.

The Board reviewed correspondence from Dr. Hilty requesting reconsideration of the Order of Administrative Fine and the response letter from Marschall Smith to Dr. Hilty.

A motion was made, seconded and carried to deny Dr. Hilty's request for reconsideration and to uphold the Order of Administrative Fine. Dr. Calonge and Dr. Melendez abstained from voting. Dr. Allen-Davis, Mr. Schoenmaker, Dr. Utt, and Dr. Watts opposed the motion.

Rule 400 - Request for Waiver of the Board Rule Regarding the Regulation of Physician Assistants

Review of the Rule 400 waiver process

The Board reviewed a memorandum from Board staff regarding the process for reviewing Rule 400 waivers. The memorandum was for the Board's information and no action required.

John Beaman, M.D.

The Board reviewed a memo from Board staff and correspondence from Dr. Beaman requesting reconsideration of a previously denied waiver request from Rule 400, Section 2 B 1, two Physician Assistant limit.

A motion was made, seconded and carried to deny Dr. Beaman's request.

Jerald Solot, D.O.

The Board reviewed correspondence and heard a presentation from Dr. Solot requesting a waiver from Rule 400, Section 2 B 1, two Physician Assistant limit.

A motion was made, seconded and carried to deny Dr. Solot's request

Roger S. Sherman, M.D.

Dr. Calonge recused himself from participation in this discussion and departed the meeting room

The Board reviewed correspondence from Dr. Sherman requesting a waiver from Rule 700, Limited Scope Radiology Certification.

A motion was made, seconded and carried to deny Dr. Sherman's request.

CPHP Report, Second Quarter, Report ending December 31, 2009

The Board reviewed the December 31, 2009 Second Quarter Report.

A motion was made, seconded and carried to accept the report.

Humayun J. Chaudhry, D.O., FACP

The Board reviewed a memo from Dr. Chaudhry regarding MD/DO dual degree concerns. The memo was for the Board's information and no action required.

Allegations of Unlicensed Practice

Craig K. Sommer, D.D.S.

The Board reviewed a staff memo from Sheila H. Meer, Esq., Attorney for Dr. Sommer.

A motion was made, seconded and carried to refer this matter to the Dental Board.

Office of Attorney General

The Office of Attorney General's Confidential Full Board Case Status Report was presented to the Board for review. The report was for the Board's information and no action required.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:53 p.m.

These Minutes were approved by the Board on this 20th day of May, 2010.

FOR THE BOARD OF MEDICAL EXAMINERS

Approved by: Jandel Allen-Davis, M.D.

Date: May 20, 2010